



China (Taiwan only)

Country Reports on Human Rights Practices - [2003](#)

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Taiwan is a multiparty democracy. The 2000 victory of Democratic Progressive Party (DPP) presidential candidate Chen Shui-bian followed more than 50 years of rule by the Kuomintang (KMT) and marked the first transition from one political party to another in Taiwan's history. The president appoints the premier, who heads the Executive Yuan or Cabinet. Constitutional amendments adopted in 1997 provided the Legislative Yuan (LY) with the authority to dismiss the Cabinet with a no-confidence vote. In 2001, the DPP won a plurality of seats in the LY in free and fair elections. In addition to the DPP, the KMT, the People First Party (PFP), and the Taiwan Solidarity Union played significant roles in the LY. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, and the Government respected the judiciary's independence in practice.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau (CIB), and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies were under effective civilian control. The police occasionally committed human rights abuses.

Taiwan has an export-oriented, free-market economy. Liberalization of the economy has to some extent diminished the dominant role that state-owned and party-run enterprises previously played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. Services and capital- and technology-intensive industries were the most important sectors. Major exports included computers, electronic equipment, machinery, and textiles. The 23 million citizens generally enjoyed a high standard of living and an equitable income distribution.

The authorities generally respected the human rights of citizens; however, there were problems in some areas. Instances of police abuse of persons in custody, military hazing, judicial corruption, violence and discrimination against women, child prostitution and abuse, and trafficking in women and children occurred.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Code of Criminal Procedure stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, there were credible reports that police occasionally physically abused persons in their custody.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see Section 1.d.). The MOJ claimed that each interrogation is audiotaped or videotaped and that any allegation of mistreatment is investigated. Nonetheless, lawyers and legal scholars noted that abuses most often occurred in local police stations where interrogations were not recorded and when attorneys often were not present. Beginning in September, in addition to audiotaping or videotaping interrogation sessions, the presence of two police officers was required at every session. If the presence of two officers could not be secured, the interrogation report must note this and the reason why. As of April, there were 585 interrogation rooms fully equipped with audio recorders and video cameras. The NPA instructed that all construction planning for police stations include audio/video interrogation rooms and itemized costs for these facilities in their short-, medium-, and

long-term budget proposals. Also in September, the Government implemented a criminal code that provides that criminal charges must be based on legally obtained evidence; confessions, whether by defendants or accomplices, unsupported by other evidence shall not be sufficient to convict defendants; confessions alleged to be illegally obtained must be investigated before proceeding to other evidence.

Law enforcement agencies remained weak in scientific investigative skills; however, the NPA continued to make efforts to improve by upgrading its crime laboratory technology and training crime scene examiners.

The NPA stated that regulations forbid the abuse of suspects and that police who abuse suspects are punished. Detainees who are abused physically have the right to sue the police for torture, and confessions obtained through torture are inadmissible in court proceedings. According to the Government, there were no such cases during the year. In January, the Taiwan High Court acquitted the "Hsichih Trio" who alleged police torture in extracting their confessions to a 1991 murder charge. At year's end, prosecutors were appealing the court's decision.

Although the primary responsibility for investigating torture and mistreatment lies with prosecutors, the Control Yuan, a coequal branch of the political system that investigates official misconduct, also investigates such cases. According to the Government, instilling respect for human rights was a part of basic police training, and, during the year, the Central Police University, the Taiwan Police College, and police departments strengthened human rights and legal education in the student curriculums and personnel training. Human rights groups acknowledged the improvements.

Corporal punishment is forbidden under military law, and the Ministry of National Defense implemented several programs in recent years to address the problem. In 2002, a law was passed establishing committees for the protection and promotion of servicemen's rights and interests. Nonetheless, in November, in the LY opposition legislators raised incidents of military hazing. The Premier said that the Government would look into these cases and promised more actively to ensure the protection of human rights in the military.

Prison conditions generally met international standards. Male prisoners were segregated from women, juveniles from adults, and pretrial detainees from convicted prisoners. However, overcrowding at the 47 prisons and overly long stays at detention centers for illegal aliens remained problems. Recent NPA initiatives reduced the average stay at detention centers for illegal aliens from 78 days in 2001 to 55 days in 2002. According to the MOJ, the number of inmates beyond the capacity of the prisons increased from 2,321 in July 2002 to 5,018 in July 2003, representing an increase from 4.4 to 9.6 percent overcapacity. Expansion and construction projects to counter overcrowding were underway at year's end.

The authorities permitted prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, and the authorities generally observed this prohibition. Police legally may detain without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more, when there is ample reason to believe the person may flee. Police may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect, the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. If the prosecutor rejects the application for a warrant, the police must release the detainee immediately. Indicted persons may be released on bail at judicial discretion. Since 2000, the NPA has taken steps to prevent the unauthorized release of information about the identity of detainees. In 2002, the JY banned television cameras in courts, and the justice minister required prosecutors to offer masks so that suspects may conceal their identities.

The NPA of the MOI has jurisdiction for all police units. Observers believed that an historical and cultural tradition of corruption hindered police effectiveness. In December, the LY passed the Police Duty Act, which provides police officers with guidelines for evaluating "probable cause." Human rights advocates complained that the law does not address all of their concerns, and they remained concerned about police effectiveness despite the Government's reforms.

By law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also apply to detention during trial. If a crime is punishable by less than 10 years' imprisonment, then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During the second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within 3 months of indictment.

The Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respected a detainee's request to have a lawyer present during the investigation phase. When a detainee requests legal counsel, police must wait at least 4 hours for a lawyer before proceeding with an interrogation. Although the law requires that indigent persons be provided legal counsel during trials, it does not provide for legal counsel during interrogations. However, revisions to the Code of Criminal Procedures, which the NPA began implementing in September, provided additional

protection to indigent persons during interrogations. The revised Code requires that confessions from interrogations conducted in the evenings generally not be used as evidence; that allegations that a confession was obtained illegally be investigated before it be used in a trial (see Section 1.c.); that, with the exception of urgent circumstances when such equipment is unavailable, interrogations be audiotaped or videotaped; that when written reports of interrogations are in conflict with evidence in audiotapes and videotapes the contradictory interrogation not be used as evidence. However, some human rights advocates continued to complain that the rules did not provide adequate protection since suspects often did not have legal representation during police interrogation. In addition, informed observers reported that the "public defense counsels" did not appear until the final argument of a trial and that they seldom spent adequate time discussing the case with their clients. In response to this complaint, beginning in February, courts were allowed to appoint private attorneys or public defense counsels to detainees. The courts require, in the first trial, that counsels interview the detainee at least once before each hearing and, in an appeal, whenever the detainee requests an interview.

The Constitution does not provide for forced exile, and it was not practiced.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. However, while the Government has made efforts to eliminate corruption and to diminish political influence in recent years, residual problems remained.

In recent years, the JY has taken several measures to reduce political influence on judges. An independent committee using secret ballots decides judicial appointments and promotions. Judicial decisions no longer are subject to review by presiding judges, except in the case of decisions by "assistant judges." The judges themselves decide upon distribution of cases. Finally, judges and the President of the JY are prohibited from taking part in political activities. In January, six nongovernmental organizations (NGOs), including academics, human rights activists, and legal experts, founded a 15-member committee to monitor the grand justices nomination process. In an August 17 report, the committee evaluated 15 grand justice nominees and found 3 unqualified, including the incumbent vice president of the JY. The NGOs argued that his handling of death penalty cases violated human rights by narrowing the time between sentencing and execution. The report also questioned his political neutrality. Despite the report, the LY confirmed the nominations.

The Government's anti-corruption campaign reinforced the JY's efforts to eliminate judicial corruption. Although the LY has yet to enact the JY president's proposed code of judicial conduct, the proposals resulted in revised precepts for evaluation of judicial performance and strengthened reviews of judges' financial disclosure reports. In addition, a human rights course was part of the JY training program. These factors reduced the incidence of judicial misconduct; however, there continued to be complaints of corruption on the part of individual judges. During the year, the district court's disciplinary committee and the JY's Commission on Disciplinary Sanctions of Public Functionaries both took up a case against a judge in Taoyuan for dereliction of duty. Also during the year, a High Court judge was impeached by the Control Yuan for circumventing the restriction on visits by high-level public officials to the People's Republic of China.

The JY is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 15-member Council of Grand Justices, which interprets the Constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. The Administrative Court also provides judicial review.

The law provides the right of fair public trial, and this generally was respected in practice. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is 3 or more years' imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial but usually were not present during police interrogations. Although the Government took measures to strengthen the effectiveness of defense representation, some human rights lawyers argued that more improvements were necessary (see Section 1.d.). The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences.

In May 2002, the LY passed criminal procedure legislation making judges impartial adjudicators of lawsuits rather than law enforcers for the Government obligated personally to help gather evidence for prosecutors. The revision, which elevates the status of judges' over that of prosecutors, requires prosecutors to bear the full responsibility for investigations and charges them with the duty of convincing the judge of the guilt of the accused.

In 2001, the Council of Grand Justices declared certain due process provisions of the 1985 Anti-Hoodlum Law to be

unconstitutional. The law had departed from international standards by allowing police to detain suspects for up to 1 month--extendable to subsequent months--while the suspect was under investigation. In April 2002, the LY passed legislation eliminating that provision.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution and the Criminal and Civil Codes contain provisions protecting privacy. In 2001, the LY amended the Code of Criminal Procedure to require prosecutors to obtain judicial approval of search warrants, except when "incidental to arrest" or when there are concerns that evidence may be destroyed. However, critics claimed that the incidental to arrest provision not only is unconstitutional but also often is interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate that a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A police officer who carries out an illegal search may be sued for illegal entry and sentenced to up to 1 year in prison.

In 2001, the Council of Grand Justices ruled that the Police Administration Law (PAL), which had been used to give police wide discretion in searching persons in public places and stopping vehicles for inspections, did not entitle police to make such searches unless a clear risk to public safety had been established. Noting that such searches could infringe on freedom of movement, privacy, and the right to property, the Council instructed the NPA to revise the PAL in accordance with its ruling immediately. The revision to the PAL was passed by the LY in June, and the Government started implementing it on December 1. The revised law clearly stipulates the limitation of police authority and allows citizens to demand compensation for illegal practices by the police.

Although the MOJ and the police used wiretapping as an investigative tool, unauthorized wiretapping was less of a problem following passage in 1999 of the Telecommunications Protection and Control Law, which imposed severe penalties for unauthorized wiretapping. The Telecommunications Law and Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. According to the MOJ, in the past 2 years the number of approved wiretaps increased to 13,834 from approximately 10,000 in 2002. Officials attributed the increase to investigations into alleged vote-buying cases during local and national elections. The law also regulates wiretapping by the intelligence services.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

Print media represented the full spectrum of views within society. However, some political influence still existed over the electronic media, particularly broadcast television stations. However, the existence of approximately 100 cable television stations, some of which carry programming openly critical of the various political parties, has diminished the importance of political party influence over the broadcast television stations. Moreover, in December, the LY approved legislation that bars the Government, political parties, and political party officials from owning or running media organizations. The Government and the parties are required to divest themselves of stakes in all television and radio broadcast companies within 2 years. Government and party officials who serve as board members or hold managerial positions in media companies are obligated to sever their media ties within 6 months. The legislation also mandates the formation of a National Communications Commission to replace the Government Information Office (GIO) in overseeing the operations of the broadcast media. By year's end, all government offices and many politicians had complied with the new legislation.

Controls over radio stations were more limited than those over television stations and gradually were being liberalized. Responding to allegations that underground stations were illegally occupying government and private property and selling unregulated medicine, an inter-agency task force was formed this year to crack down on them. In the first 6 months of the year, the Ministry of Transportation and Communications fined and closed down 33 stations.

Among other restrictions regulating the media were those precluding persons previously convicted of sedition from owning, managing, or working in television and radio stations. DPP leaders, many of whom were convicted of sedition in the aftermath of the 1979 Human Rights Day demonstrations that turned into a riot, known as the "Kaohsiung incident," were not affected because their rights were restored through presidential amnesties by the previous administration.

There is a vigorous and active free press. In 1999, the LY abolished the Publications Law, which had empowered the police to seize or ban printed material that was seditious, treasonous, sacrilegious, interfered with the lawful exercise of public functions, or violated public order or morals. However, in March 2002, the Government raided the

offices of Next Magazine and confiscated 160,000 copies of an issue containing an article about \$100 million (NT\$3.5 billion) in secret funds established by former President Lee Teng-hui and used as well by the current administration for diplomatic missions and policy initiatives. The Taiwan High Court Prosecutor's Office charged a reporter at the magazine with breaching national security; the case remained pending at year's end. In July, the Taiwan High Court sentenced a former journalist who reported the details of a military exercise in 2000 to 18 months in prison and 3 years probation. The journalist was appealing the decision. He was the first person to be convicted of revealing classified military secrets. After the abolishment of the Publications Law in 1999, the police may seize violent or pornographic material based on the offences against morals and public order of the Criminal Code and the Child and Adolescent Sexual Prevention Statue. The police must request search warrants from prosecutors to conduct such seizures.

The GIO required that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication and still sought to ban the importation of publications that advocated communism or the establishment of united front organizations, endangered public order or good morals, or violated regulations or laws. Beginning in July, the GIO eliminated the requirement that China-origin material be converted to traditional characters before being published in Taiwan. However, cable television systems are still required to send imported material to the GIO for screening and to convert the subtitles to traditional characters before broadcasting.

The quality of news reporting was erratic, and, at times, the media trampled on individuals' right to privacy. The media often taped and aired police interrogations and entered hospital rooms when the patient was unable to prevent this.

The authorities did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the authorities generally respected this right in practice. Permits required for outdoor public meetings were granted routinely. The National Security Law gives the Government the authority to prevent demonstrations advocating communism or the division of the national territory. However, demonstrations advocating independence have taken place without government interference.

The Constitution provides for freedom of association; and the authorities generally respected this right in practice. The Civic Organization Law requires all civic organizations to register. Registration was granted routinely.

Under the Civic Organization Law, the Constitutional Court holds the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law during the year.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the authorities generally respected this right in practice. Religious organizations may register with the central authorities through their island-wide associations under either the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations; however, registration is not mandatory.

Registered organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many chose not to register and operated as the personal property of their leaders. In the past, concern over abuse of tax-free privileges or other financial misdeeds occasionally prompted the authorities to deny registration to new religions whose doctrines were not clear, but there were no reports that the authorities sought to suppress new religions during the year.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27767pf.htm).

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation

The authorities did not restrict freedom of internal travel. Foreign travel by passport holders was common.

Nonresident passport holders usually were issued "overseas Chinese" passports and must seek entry permits for travel to Taiwan. According to the National Security Law, entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during the year. Holders of nonresident passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1987, the authorities have relaxed substantially strictures against tourism by residents to the Chinese mainland, and such travel was common. Although the LY enacted legislation to remove restrictions that were previously in existence for national security reasons and to permit Chinese from the mainland to visit for business, academic, or tourism purposes, many mainlanders were refused visas because they could not convince an immigration officer that they would not abandon their residence on the mainland to become economic migrants to Taiwan.

All travelers from the mainland are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. In 2001, Taiwan relaxed the regulations to allow PRC correspondents to be temporarily posted to Taiwan for up to 1 month per visit. According to the Mainland Affairs Council, four PRC media agencies took advantage of the opening to cover news in Taiwan. In the first 6 months of the year, 2,569 PRC professionals from academia, the arts, and the media, including 125 journalists, participated in the cross-straits exchanges.

A draft asylum law was under review in the Executive Yuan at year's end. However, the draft law excludes persons from the PRC, Hong Kong, and Macao. These persons would still be subject to the Mainland Relations Act. While the authorities were reluctant to return to the mainland those who might suffer political persecution, they regularly deported to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally entered the island for economic reasons. In November 2002, a PRC democracy activist, who had entered Taiwan illegally, was granted asylum in a third country. In June, another PRC democracy activist was returned to South Korea where he had started his journey with a fraudulent passport. Prior to the activist's deportation, the U.N. High Commissioner for Refugees had granted him refugee status.

Some detention centers for illegal immigrants continued to be overcrowded, and detainees complained about long stays at the centers while waiting to be repatriated. The NPA continued to improve its facilities and provided human rights training for detention center personnel. The average stay at detention centers for non-PRC illegal aliens was reduced from 78 days in 2001 to 55 days in 2002. The Bureau of Entry and Exit faulted mainland Chinese authorities for delays in repatriation. The authorities allowed some detained illegal aliens from mainland China to return to the mainland by airplane via Hong Kong at their own expense. In addition, the authorities repatriated other mainland Chinese directly from the island of Matsu or allowed them to fly back to China via a third country, rather than taking them to detention centers in Taiwan.

The 1999 Entry, Exit, and Immigration Law provides strict sentencing guidelines for alien smuggling. Several cases were brought before the courts under this law; however, few resulted in convictions.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government peacefully, and citizens exercised this right in practice. In 2000, for the first time an opposition party candidate was elected President, winning a 39 percent plurality in a 3-person race. Generally free and fair popular elections for the LY have taken place four times since 1992.

The Chen administration made significant progress in its efforts to eliminate corruption and vote buying.

In the first 6 months of the year, prosecutors indicted 680 persons in 324 cases of alleged corruption. In addition to 42 elected officials, 369 other government officials were indicted—including 43 at senior level, 107 at middle level, and 219 at low level. In a campaign against organized crime, prosecutors investigated 1,954 cases, indicted 1,690 persons in 654 cases, and convicted 490 persons in 208 cases in the first 6 months of the year. Those indicted in the campaign against organized crime included 2 legislators, 37 city and county council members, and 29 township chiefs and representatives.

The investigations of vote buying and political campaign corruption sparked controversy. During the August Hualien magistrate by-election, the police set up checkpoints to prevent vote buying. The Taiwan Human Rights Association characterized the action as an intrusion into privacy and free movement and a potential violation of human rights. The Chinese Human Rights Association noted that implementation might have been insensitive to the dignity of the local residents.

In the 2001 legislative elections, the DPP won the largest bloc, obtaining 87 of 225 seats. The KMT, which lost the legislative majority for the first time, won 68 seats. The PFP more than doubled its representation in the LY, winning 46 seats. The newly established Taiwan Solidarity Union, inspired by the pro-Taiwanese ideology of former president Lee Teng-hui, won 13 seats. The New Party won one seat.

In November, the LY passed and President Chen signed a Referendum Law. The DPP had long advocated such legislation, but the bill that passed was largely drafted by the KMT and PFP, and gave the power to initiate referendums to the LY and to popular initiatives, except for so-called "defensive initiatives" in instances of imminent danger.

The Constitution provides for equal rights for women, and their role in the political sphere increased. In 2000, a woman for the first time was elected vice president, and 7 of 40 cabinet officials were women, including the chairpersons of the Mainland Affairs Council and the Labor Affairs Council. Two of 25 Control Yuan members and 3 of 20 Examination Yuan members were women. A number of women also held important political party positions. Two of the 15 members of the DPP Central Standing Committee were women, as were 8 of the KMT's 31 Central Standing Committee members. Forty-eight members in the 225-

member LY were women.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. The proportion of legislative seats allocated to Aborigines was almost twice their approximately 2 percent of the population. An Aborigine served as Chairman of the Council of Aboriginal Affairs.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." It also provides for the rights of persons with disabilities. While the authorities were committed to protecting these rights, discrimination against some groups continued. Societal discrimination against persons with HIV and AIDS was a problem, and some politicians made derogatory remarks about persons with HIV and AIDS. However, the National Health Insurance provides free screening and treatment, including anti-retroviral therapy for all HIV-infected nationals.

Women

Violence against women, including domestic violence and rape, remained a serious problem. Domestic violence was especially widespread. The authorities funded domestic violence hotlines, which also handled calls for assistance from victims of sexual assault and child abuse. A domestic violence specialist unit was added to police stations to provide expertise on the issue. In 2002, the Taipei City funded Domestic Violence Prevention and Control Center pioneered a help desk at the Shihlin District Court to assist victims in the judicial process. During the year, the help desk assisted an average of 90 cases per month. In March, another help desk was added in Taipei South District Court. The Taipei city government provided the funding, and a women's NGO staffed both help desks. Because many victims could not distinguish between the domestic violence hotline and the regular emergency help line, in May, the Ministry of Interior launched a pilot program in Tainan city and county police stations in which persons could register for protection. Having information about each individual's circumstance and social workers readily available improved police response time. The 1999 Domestic Violence and Protection Control Law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Although some cases were prosecuted, strong social pressure discouraged abused women from reporting incidents to the police to avoid disgracing their families.

Rape also remained a serious problem, and its victims were stigmatized socially. Experts estimated that the number of rapes was 10 times the number reported to the police. The law permits the prosecution of the crime of rape without requiring the victim to press charges. Under the law, rape trials may not be open to the public unless the victim consents. The Code of Criminal Procedure establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted usually were given sentences of 5 to 10 years in prison. According to the NPA, there were 3,003 cases of rape or sexual assault reported in 2002. In 2002, 1,642 persons were indicted for rape or sexual assault, and 1,251 were convicted. From January to July, district prosecutors indicted 1,433 suspects and convicted 1,070 persons. Spousal rape is a crime. By regulation, doctors, social workers, police, and prosecutors jointly question victims of sexual abuse to reduce the number of times a victim is questioned.

The law requires all city and county governments to set up domestic violence prevention and control centers. The centers provided victims with protection, shelter, legal counseling, and other services on a 24-hour basis. Under the law, a judicial order may be obtained to prohibit violators from approaching victims. In 2002, 1,618 persons were indicted for committing domestic violence, and 1,232 were convicted. From January to July, prosecutors indicted 1,138 suspects and convicted 1,163 persons for committing domestic violence. In 2002, the city and county domestic violence prevention and control centers consulted with a total of 71,613 persons, set up follow-up files on the cases of 20,530 persons, helped obtain 3,217 court protection orders, and assisted in obtaining emergency shelter for 1,163 persons. By the end of 2002, there were: 39 women's welfare service centers (23 public, 3 private, and 13 contracted out to NGOs) that had served 487,000 persons, 27 women shelters with a total capacity of 305 persons that had served 1,092 persons, and 7 single-parent family service centers with a total capacity of 283 persons that had served 359 persons. Also in 2002, 101,623 women received assistance from the Government that totaled \$8.25 million (NT\$280,353,370).

Prostitution, including child prostitution, also was a problem. The authorities were phasing out legalized prostitution. In 1999, the LY banned prostitution but exempted 23 brothels and 119 prostitutes already registered with the authorities. Under the law, no new houses of prostitution may be registered. There were reports of a growing trend of young women, often well-educated, entering into part-time prostitution. There also were credible reports of a small number of women being trafficked onto the island for purposes of prostitution (see Section 6.f.) and reports of a larger number of women who entered for purposes of engaging in prostitution.

Sexual harassment was a problem, which the Government actively addressed.

The law prohibits sex discrimination. Many sections of the legal code that discriminated against women have been eliminated. For example, women are no longer required to adopt their husband's last name after marriage, and the citizenship law was amended in 2000 to permit transmission of citizenship through either parent.

In March 2002, the 2001 Gender Equality in the Workplace Act went into effect, providing for equal treatment with regard to salaries, promotions, and assignments. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace. Women's advocates noted that women continued to be promoted less frequently and worked for lower pay than their male counterparts and that women were not granted maternity leave or were forced to quit jobs due to marriage, age, or pregnancy, despite the fact that previously existing labor laws afforded women some protections against gender-based discrimination in the workplace. According to the Council on Labor Affairs, salaries for women averaged 85 percent of those for men performing comparable jobs. Most city and county administrations set up committees to deal with complaints of sexual discrimination in the workplace.

In 2001, 60 women's organizations joined together to form the National Union of Taiwan Women to promote women's rights.

Children

The Constitution includes provisions to protect children's rights, and the authorities were committed to supporting them. Education for children between 6 and 15 years of age is free and compulsory, and this rule was enforced. According to government statistics the percentage of school-age children attending primary school was 99.94 percent and those attending junior high school 99.86 percent. Children were provided health care under the national health insurance plan.

Child abuse was a significant problem. In 2002, there were 4,590 cases of child abuse according to MOI statistics. Following the 1999 enactment of the Domestic Violence Control Law, 21 city and county governments established domestic violence protection centers, the goal of which is to protect women, children and senior citizens from violence. Services include a 24-hour hotline, emergency assistance, shelter, medical treatment and examination, counseling for victims, legal assistance, and education and training. Under the law, any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities; child welfare specialists must make such notification to local county or city governments within 24 hours, and the governments must respond with appropriate measures within 24 hours. The local county or city officials must submit a request for an investigation to a supervisory agency within 4 days. Both the MOI's Social Affairs Department and NGO specialists monitored cases to ensure that these requirements were followed. In 2002, the MOI provided guidance to city and county governments for the 3,897 day care facilities in their localities and 26 child protection centers. Financial subsidies were provided to low-income families with children in day care facilities and to local governments to promote child protection efforts. The island's 26 child protection centers have a total capacity of 938 and housed 428 children at the end of 2001. From July to December 2001, the MOI's pilot program on aborigine welfare provided assistance to 335 aboriginal children. A hotline accepted complaints of child abuse and offered counseling. Courts are authorized to appoint guardians for children who have lost their parents or whose parents are deemed unfit.

A juvenile court in Kaohsiung handled criminal cases. The court employed 24 juvenile counselors. There were three juvenile detention centers on the island.

Although no reliable statistics were available, child prostitution was a serious problem, particularly among aboriginal children (see Section 6.f.). Most child prostitutes ranged in age from 12 to 17 years. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their "own free will" and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remained obstacles to enforcement. According to well-informed observers, the practice of aboriginal families selling their children into prostitution no longer existed.

According to some reports, brothel owners used violence, drug addiction, and other forms of coercion to prevent child prostitutes from escaping. The law provides for up to 2 years' incarceration for customers of prostitutes under the age of 18. In 2002, 1,602 persons were indicted, and 1,252 were convicted for violations of the law. In the first 11 months of the year, 1,021 persons were indicted and 1,196 (including persons indicted earlier) were convicted. The law also requires the publication of the names of violators in newspapers. In February, the Taipei city government published the names of 40 persons convicted of patronizing child prostitutes in 2002, compared with 23 names in 2001. In 2002, police rescued 598 child prostitutes, including 568 citizens, 27 PRC nationals, and three other foreign nationals, of whom 54 were male and 544 female. During the same period, local governments provided shelter to 1,077 rescued children--503 in emergency shelters, 431 in temporary shelters, and 143 in half-way schools. The law prohibits the media from running advertisements involving the sex trade and imposes penalties on citizens arrested abroad for having sex with minors; these laws were enforced in practice (see Section 6.f.).

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and sets minimum fines for various violations. New public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and, in practice, this requirement was generally met. Violations of the law resulted in fines of \$1,765 to \$8,824 (NT\$60,000 to NT\$300,000). Existing public buildings were to be brought into conformity by 1995; however, as of year's end, there did not appear to be a substantial effort aimed at refitting older buildings to accommodate persons with disabilities.

According to MOI statistics, as of June, there were 847,703 persons with disabilities. One-third of the total were severely disabled and received shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire persons with disabilities equal to 2 and 1 percent of their work force, respectively. Organizations failing to do so must pay, for each person with disabilities not hired, 50 percent of the basic monthly salary (approximately \$227 (NT\$8,000)) into the Disabled Welfare Fund, which supports institutions involved in welfare for persons with disabilities. Many organizations complained that it was difficult to find qualified workers with disabilities, and they appeared to prefer to pay the fines. Both the central and local governments established committees for the protection of persons with disabilities.

Indigenous People

The only non-Chinese minority group consists of the aboriginal descendants of Malayo-Polynesians, who were well established on the island when the first Chinese settlers arrived. According to MOI statistics, as of June, there were 438,658 of these Aborigines. More than 70 percent were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines are protected under law. The National Assembly amended the Constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and to ensure their cultural, educational, and business development. In addition, the authorities instituted social programs to help Aborigines assimilate into the dominant Chinese society. The Government increased the budget of the cabinet-level Council of Aboriginal Affairs to \$164 million (NT\$5.6 billion) from \$23.5 million (NT\$800 million) in 1997.

During the school year, 264 schools nationwide offered aboriginal language classes in primary schools. The Ministry of Education encouraged university education for Aborigines and worked to preserve aboriginal culture, history, and language through the establishment of aboriginal studies centers. To compete for government contracts the law requires that a firm with at least 100 employees must include among its employees a minimum of 1 percent of Aborigines and 1 percent of persons with disabilities.

To address a longstanding grievance regarding their inability to own their ancestral land, President Chen signed a partnership document with representatives from all aborigine tribes recognizing their land rights and further allowing some form of autonomy. The Council of Aboriginal Affairs, in addition to continuing the investigation and mapping of traditional tribes and their territories, coordinated with other ministries to draft or amend legislation on issues such as development in the Aborigine reservations, zoning, national parks, and hot spring tourism.

According to Council of Aboriginal Affairs statistics, in the 2001 school year, 99.72 percent of aborigine children completed elementary school.

The sale of Aborigine children into prostitution by their parents reportedly no longer occurred.

Section 6 Worker Rights

a. The Right of Association

Most workers in Taiwan have been allowed to form unions and to associate for many years; however, civil servants, teachers, and defense industry workers did not enjoy that freedom. Until 1995, teachers, civil servants, and defense industry workers had no legal basis to form any type of worker association. However, in 1995, the JY ruled that the right of association is protected by the Constitution. In June 2002, the LY passed the Civil Servants Association Law, which affords civil servants the right to organize professional associations but does not permit them to organize labor unions or to strike. A teachers' law, which would provide a legal basis for teachers to associate, was under consideration by the LY at year's end. On September 28, more than 100,000 teachers from around the island gathered in downtown Taipei to protest not being allowed to form unions and to strike. At year's end, legislation protecting defense workers' right to association has not been proposed.

A number of laws and regulations limit the right of association. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Labor unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. However, there were no instances of the authorities dissolving local labor groups or denying certification to new labor unions during the year.

The Labor Union Law requires that labor union leaders be elected regularly by secret ballot, and, in recent years, workers have sometimes rejected management-endorsed union slates. During the year, there were no reports of political interference in labor union affairs.

Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because

they are labor union members. However, in practice, employers sometimes dismissed labor union leaders without reasonable cause or laid them off first during employee cutbacks, and observers pointed out that the law has no specific penalties for violations.

Labor unions may form confederations, but, in the past, no administrative district, including a city, county, or province, was permitted to have competing labor confederations. Since 2000, the Government has significantly eased these restrictions, and the Council of Labor Affairs (CLA) recognized six new island-wide labor federations, including the Taiwan Confederation of Trade Unions (previously known as the National Federation of Industrial Unions), the Chinese Labor Unions Federation, and the National Trade Union Confederation. Nonetheless, the percentage of workers who were labor union members did not increase in recent years in the face of a series of factory closure layoffs, the shift from manufacturing to service industries, and the small-scale and poor organization of most unions. As of March, approximately 29 percent of the 10 million-person labor force belonged to 4,111 registered labor unions.

In 1971, the People's Republic of China replaced Taiwan in the International Labor Organization (ILO). However, Taiwan's Chinese Federation of Labor attends the ILO annual meetings as an affiliate of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively

Except for the categories of workers noted in Section 6.a., the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. The 278 collective agreements in force in March involved roughly 25 percent of industrial labor unions and covered a relatively small proportion of the total workforce. Employers set wages generally in accordance with market conditions.

The law governing labor disputes recognizes the right of labor unions to strike but imposes restrictions that in practice make legal strikes difficult and seriously weaken collective bargaining. For example, the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year. The Council of Labor Affairs reported that since the lifting of martial law in 1987 there were 36 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. On the September 11 Moon Festival Holiday, one of the busiest travel days of the year, the Taiwan Railway Workers Union attempted a de facto strike by calling a general meeting of all its members to protest the Government's goal of privatizing the Taiwan Railway Administration. This job action was generally ineffective as the trains were kept running, but, in the wake of a threatened 2004 Lunar New Year strike, in December, the authorities agreed to postpone privatization of the railways and to absorb all debts of the Taiwan Railway Administration.

Firms in export processing zones were subject to the same laws regarding treatment of labor unions as other firms and followed normal practices including honoring collective bargaining agreements with their unions.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, there were several cases of forced child prostitution prosecuted by the authorities (see Sections 5 and 6.f.).

In 1992, 66 women who had been forced to work as "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Government) registered with the Taipei Women's Rescue Foundation (TWRP). In 1999, TWRP helped nine of those still alive to file a lawsuit in the Tokyo District Court seeking compensation of \$81,300 (10 million Japanese Yen) per person and a formal apology from the Japanese Government. In October 2002, the Tokyo District Court ruled against the women. TWRP has filed an appeal in the Tokyo High Court. At present, only seven of the nine women are still alive.

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Standards Law (LSL) stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus enforced minimum age laws effectively. The Child Welfare Law, the Juvenile Welfare Law, and the Child and Juvenile Sexual Transaction Prevention Act protect children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182.

e. Acceptable Conditions of Work

The Labor Standards Law (LSL) addresses rights and obligations of employees and employers, but the law was not well enforced in areas such as overtime work and pay or retirement payments. By the end of 2002, the LSL covered 5.7 million of Taiwan's 6.8 million salaried workers. Those not covered included teachers, doctors, lawyers, civil servants, and domestic workers. The CLA conducted publicity campaigns to increase public awareness of the law and operated telephone hotlines to accept complaints of LSL violations.

The CLA did not increase the minimum monthly wage, which has remained at \$465 (NT\$15,840) since 1998. While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, the average manufacturing wage was more than double the legal minimum wage, and the average for service industry employees was even higher. In 2000, the LY passed legislation to reduce working hours from 48 hours per week to 84 hours per 2-week period. In the public sector, there is a 5-day workweek. According to a CLA survey, 53 percent of private enterprises also have reduced the normal workweek to 5 days. To reduce the impact of the reduction in working hours on businesses, in December 2002, the LY amended the LSL to allow business to calculate work hours on an 8-week base, so that firms can arrange work hours in such a way as to reduce the amount of overtime work.

The law provides adequate standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, critics alleged that the CLA did not effectively enforce workplace laws and regulations because it employed too few inspectors. During the year, there were 265 inspectors available for the approximately 280,000 enterprises covered by the Occupational Safety and Health Law. However, by combining health inspections with safety inspections, the number of health and safety inspections increased 14 percent from 62,840 in 2001 to 71,848 in 2002. The CLA maintained that it had strengthened its safety checks at workplaces with a greater risk of worker injury and it offered training programs to help workers protect their rights. Since many enterprises were small, family-owned operations employing relatives unlikely to report violations, actual adherence to the hours, wage, and safety sections of various labor laws was difficult to document but was believed to be minimal in these smaller enterprises.

Since 2000, the CLA has adopted a series of measures to restrict the number of foreign workers in major public construction projects, key manufacturing investment projects, and the manufacturing sector, thus reducing the number of foreign workers by 15,000 workers per year. The number of legal foreign workers has decreased from 327,000 in 2000 to approximately 294,000 at the end of June, including approximately 106,000 workers from Thailand, 76,000 from Indonesia, 71,000 from the Philippines, and 41,000 from Vietnam.

The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, the CLA in 1998, allowed family maids, including foreign family maids, to be exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover, authorities stated that in many cases, illegal foreign workers, many from Thailand and the Philippines, received board and lodging from their employers but no medical coverage, accident insurance, or other benefits enjoyed by citizens. In response to deteriorating economic conditions, the Government adopted a proposal by the Economic Development Advisory Conference allowing room and board expenses for foreign workers, beginning with contracts signed in September 2001, to be treated as in-kind payments and deducted from foreign workers' pay. The CLA set the ceiling of these deductions at \$117 (NT\$4,000) per month.

Illegal foreign workers also were vulnerable to employer exploitation in the form of confiscation of passports (making it difficult to change employers), imposition of involuntary deductions from wages, and extension of working hours without overtime pay. There also were reports that foreign workers often paid high agency fees to obtain jobs. In addition, observers reported that conditions in many small- and medium-sized factories that employed illegal foreign labor were dangerous, due to old and poorly maintained equipment. Observers alleged that legal foreign workers were sometimes similarly exploited. The CLA urged employers not to mistreat foreign workers, and employers were subject to the same penalties for mistreating foreign workers as for mistreating citizen workers. In an effort to reduce broker fees, the CLA revoked permits of agencies charging excessive fees, and local governments inspected agency hiring practices. The CLA also negotiated direct hire agreements with labor-sending countries, and encouraged NGOs to establish nonprofit employment service organizations to assist foreign laborers in locating employment.

In November 2002, the CLA rescinded regulations requiring the deportation of foreign laborers who became pregnant and further amended regulations to allow them to switch to jobs with lighter workloads. The CLA has established 24 offices around the island to provide counseling and other services to foreign workers, and it provided financial assistance to city and county governments to conduct inspections of places where foreign workers were employed. It also attempted to reduce the number of illegal foreign workers.

f. Trafficking in Persons

The Statute for the Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who forces a child below the age of 18 to engage in sex or sells or pawns such a child by other means. Provisions in the Criminal Code can also be used to prosecute traffickers in persons above the age of 18. Trafficking in persons was a problem.

The island remained a significant transit point and, to a lesser extent, a destination for trafficked persons. There were reports of

organized crime rings trafficking in a small number of women for the purpose of prostitution. The majority of cases involved women from mainland China, Thailand, Cambodia, Vietnam and Indonesia. Criminal gangs in mainland China reportedly used deceptive measures to recruit and procure young women who were then trafficked to Taiwan-based organized crime gangs who arranged sham marriages to enable them to obtain visas to enter Taiwan and exploited them for purposes of prostitution. Many of the victims were aware that they were to work as prostitutes, but were deceived by the traffickers about what their pay and working and living conditions would be upon arrival. Once in Taiwan, they were kept isolated, their passports were held, and they were threatened with violence if they did not cooperate. Small numbers of young Malaysian women, primarily ethnic Chinese, were trafficked to Taiwan for sexual exploitation. Burmese also were trafficked to Taiwan. The authorities, academic experts, and NGO experts claimed that the number of trafficking victims had decreased significantly in recent years. The authorities reportedly indicted 233 and convicted 122 persons in trafficking cases in 2002.

In June, police arrested two men on charges of luring a woman to Japan with an offer of restaurant employment and subsequently forcing her to work as a prostitute.

Taiwan remained a significant transit point for persons from mainland China attempting to travel illegally to the United States and other countries. Some of these illegal migrants became trafficking victims in the destination countries. In 1999, the LY enacted legislation, which criminalized alien smuggling (see Section 2.d.). From 2000 to 2002, 8,827 PRC citizens entering Taiwan legally were found to be working illegally, of whom 40.6 percent (3,581 persons) were women found working in the commercial sex industry. In addition, police found 14 cases of foreign-born spouses (non-PRC) of Taiwanese men involved in the prostitution business in 2002, a decrease from 17 cases in 2001, 57 in 2000, and 81 in 1999. In response to an August 26 incident in which 6 PRC women drowned off the coast of Miaoli county after their traffickers threw 26 women off 2 speed boats being pursued by the coast guard, a 12-member PRC police delegation attended a September 29 cross-Strait crime prevention seminar at the Taiwan Central Police University. During the year, Taiwan and PRC authorities agreed for the first time to initiate dialogue on combating trafficking.

Police were trained in handling trafficking, prostitution, and cases of domestic violence. The Government worked with NGOs to provide counseling and medical assistance to victims as needed. Foreign victims of trafficking were repatriated as quickly as possible.